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Attorneys For Defendants
COUNTY OF ALAMEDA and
SHERIFF GREGORY AHERN

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

RICHARD RAY, an individual, SALLY)	Case No.: C08-03627 BZ
RAY, an individual, and RICHARD AND)	
SALLY RAY, husband and wife,)	DEFENDANTS COUNTY OF ALAMEDA
)	AND SHERIFF GREGORY AHERN'S
Plaintiff,)	ANSWER TO COMPLAINT AND
)	DEMAND FOR JURY TRIAL
vs.)	
)	
CITY OF OAKLAND, a municipal)	
organization; WAYNE TUCKER, Chief of the)	
City of Oakland Police Department;)	
ALAMEDA COUNTY; GREGORY AHERN,)	
Alameda County Sheriff; DOE DEFENDANT)	
1, an unknown police officer; DOE)	
DEFENDANT 2, an unknown police officer;)	
DOE DEFENDANT 3, an unknown police)	
officer; DOE 4, an unknown police officer;)	
DOES 5, an unknown sheriff; DOE 6, an)	
unknown sheriff; and DOES 7 to 75, inclusive,)	
)	
Defendants.)	

COMES NOW Defendants COUNTY OF ALAMEDA and SHERIFF GREGORY
AHERN ("Defendants"), and answer Plaintiffs' Complaint, and state their affirmative defenses,
as follows:

GENERAL ALLEGATIONS

1. Defendants are without sufficient information or knowledge to form a belief as to the truth of this allegation, and on that basis deny each and every allegation of this paragraph.
2. Defendants are without sufficient information or knowledge to form a belief as to the

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truth of this allegation, and on that basis deny each and every allegation of this paragraph.

3. Admit.

4. Admit.

5. Admit.

6. Defendants deny generally and specifically each and every allegation of this paragraph; however, Defendants admit that Gregory Ahern is the duly elected Sheriff of the County of Alameda.

7. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

8. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

9. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

10. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

11. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

12. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

13. Defendants are without sufficient knowledge or information to admit or deny the allegations of this paragraph, and on that basis, denies generally and specifically each and every allegation of the paragraph.

1 14. Defendants deny generally and specifically each and every allegation of this
2 paragraph.

3 15. Defendants deny generally and specifically each and every allegation of this
4 paragraph.

5 16. Defendants are without sufficient knowledge or information to admit or deny the
6 allegations of this paragraph, and on that basis, denies generally and specifically each and every
7 allegation of the paragraph.

8 17. Defendants deny generally and specifically each and every allegation of this
9 paragraph.

10 **VENUE AND JURISDICTION**

11 18. Defendants are without sufficient knowledge or information to admit or deny the
12 allegations of this paragraph, and on that basis, denies generally and specifically each and every
13 allegation of the paragraph.

14 19. Defendants deny generally and specifically each and every allegation of this
15 paragraph.

16 20. Defendants deny generally and specifically each and every allegation of this
17 paragraph.

18 21. Defendants deny generally and specifically each and every allegation of this
19 paragraph.

20 22. Defendants deny generally and specifically each and every allegation of this
21 paragraph.

22 **STATEMENT OF FACTS**

23 23. Defendants deny generally and specifically each and every allegation of this
24 paragraph.

25 24. Defendants deny generally and specifically each and every allegation of this
26 paragraph.

27 25. Defendants deny generally and specifically each and every allegation of this
28 paragraph.

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1 26. Defendants deny generally and specifically each and every allegation of this
2 paragraph.

3 27. Defendants deny generally and specifically each and every allegation of this
4 paragraph.

5 28. Defendants deny generally and specifically each and every allegation of this
6 paragraph.

7 29. Defendants are without sufficient knowledge or information to admit or deny the
8 allegations of this paragraph, and on that basis, denies generally and specifically each and every
9 allegation of the paragraph.

10 30. Defendants deny generally and specifically each and every allegation of this
11 paragraph.

12 31. Defendants deny generally and specifically each and every allegation of this
13 paragraph.

14 32. Defendants deny generally and specifically each and every allegation of this
15 paragraph.

16 33. Defendants deny generally and specifically each and every allegation of this
17 paragraph.

18 **DAMAGES**

19 34. Defendants deny generally and specifically each and every allegation of this
20 paragraph.

21 35. Defendants deny generally and specifically each and every allegation of this
22 paragraph.

23 36. Defendants deny generally and specifically each and every allegation of this
24 paragraph.

25 37. Defendants deny generally and specifically each and every allegation of this
26 paragraph.

27 38. Defendants deny generally and specifically each and every allegation of this
28 paragraph.

1 39. Defendants deny generally and specifically each and every allegation of this
2 paragraph.

3 40. Defendants deny generally and specifically each and every allegation of this
4 paragraph.

5 41. Defendants deny generally and specifically each and every allegation of this
6 paragraph.

7 **FIRST CAUSE OF ACTION**

8 42. Defendants deny generally and specifically each and every allegation of this
9 paragraph.

10 43. Defendants deny generally and specifically each and every allegation of this
11 paragraph.

12 44. Defendants deny generally and specifically each and every allegation of this
13 paragraph.

14 45. Defendants deny generally and specifically each and every allegation of this
15 paragraph.

16 46. Defendants deny generally and specifically each and every allegation of this
17 paragraph.

18 47. Defendants deny generally and specifically each and every allegation of this
19 paragraph.

20 48. Defendants are without sufficient knowledge or information to admit or deny the
21 allegations of this paragraph, and on that basis, denies generally and specifically each and every
22 allegation of the paragraph.

23 49. Defendants deny generally and specifically each and every allegation of this
24 paragraph.

25 50. Defendants deny generally and specifically each and every allegation of this
26 paragraph.

27 51. Defendants deny generally and specifically each and every allegation of this
28 paragraph.

1 52. Defendants deny generally and specifically each and every allegation of this
2 paragraph.

3 **SECOND CAUSE OF ACTION**

4 53. Defendants deny generally and specifically each and every allegation of this
5 paragraph.

6 54. Defendants deny generally and specifically each and every allegation of this
7 paragraph.

8 55. Defendants deny generally and specifically each and every allegation of this
9 paragraph.

10 56. Defendants deny generally and specifically each and every allegation of this
11 paragraph.

12 57. Defendants deny generally and specifically each and every allegation of this
13 paragraph.

14 58. Defendants deny generally and specifically each and every allegation of this
15 paragraph.

16 59. Defendants deny generally and specifically each and every allegation of this
17 paragraph.

18 60. Defendants deny generally and specifically each and every allegation of this
19 paragraph.

20 61. Defendants deny generally and specifically each and every allegation of this
21 paragraph.

22 62. Defendants deny generally and specifically each and every allegation of this
23 paragraph.

24 **THIRD CAUSE OF ACTION**

25 63. Defendants deny generally and specifically each and every allegation of this
26 paragraph.

27 64. Defendants deny generally and specifically each and every allegation of this
28 paragraph.

65. Defendants deny generally and specifically each and every allegation of this paragraph.

66. Defendants deny generally and specifically each and every allegation of this paragraph.

67. Defendants deny generally and specifically each and every allegation of this paragraph.

68. Defendants deny generally and specifically each and every allegation of this paragraph.

69. Defendants deny generally and specifically each and every allegation of this paragraph.

FOURTH CAUSE OF ACTION

70. Defendants deny generally and specifically each and every allegation of this paragraph.

71. Defendants deny generally and specifically each and every allegation of this paragraph.

72. Defendants deny generally and specifically each and every allegation of this paragraph.

73. Defendants deny generally and specifically each and every allegation of this paragraph.

74. and 74. a) through e). Defendants deny generally and specifically each and every allegation of this paragraph.

FIFTH CAUSE OF ACTION

75. Defendants deny generally and specifically each and every allegation of this paragraph.

76. Defendants deny generally and specifically each and every allegation of this paragraph.

77. Defendants deny generally and specifically each and every allegation of this paragraph.

1 78. Defendants deny generally and specifically each and every allegation of this
2 paragraph.

3 79. and 79.a) through e). Defendants deny generally and specifically each and every
4 allegation of this paragraph.

5 **SIXTH CAUSE OF ACTION**

6 80. Defendants deny generally and specifically each and every allegation of this
7 paragraph.

8 81. Defendants deny generally and specifically each and every allegation of this
9 paragraph.

10 82. Defendants deny generally and specifically each and every allegation of this
11 paragraph.

12 83. Defendants deny generally and specifically each and every allegation of this
13 paragraph.

14 84. and 84.a) through e). Defendants deny generally and specifically each and every
15 allegation of this paragraph.

16 **SEVENTH CAUSE OF ACTION**

17 85. Defendants deny generally and specifically each and every allegation of this
18 paragraph.

19 86. Defendants deny generally and specifically each and every allegation of this
20 paragraph.

21 87. Defendants deny generally and specifically each and every allegation of this
22 paragraph.

23 88. Defendants deny generally and specifically each and every allegation of this
24 paragraph.

25 89. Defendants deny generally and specifically each and every allegation of this
26 paragraph.

27 90. and 90.a) through e). Defendants deny generally and specifically each and every
28 allegation of this paragraph.

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EIGHTH CAUSE OF ACTION

91. Defendants deny generally and specifically each and every allegation of this paragraph.

92. Defendants deny generally and specifically each and every allegation of this paragraph.

93. Defendants deny generally and specifically each and every allegation of this paragraph.

94. Defendants deny generally and specifically each and every allegation of this paragraph.

NINTH CAUSE OF ACTION

95. Defendants deny generally and specifically each and every allegation of this paragraph.

96. Defendants deny generally and specifically each and every allegation of this paragraph.

97. Defendants deny generally and specifically each and every allegation of this paragraph.

TENTH CAUSE OF ACTION

98. Defendants deny generally and specifically each and every allegation of this paragraph.

99. Defendants deny generally and specifically each and every allegation of this paragraph.

ELEVENTH CAUSE OF ACTION

100. Defendants deny generally and specifically each and every allegation of this paragraph.

101. Defendants deny generally and specifically each and every allegation of this paragraph.

102. Defendants deny generally and specifically each and every allegation of this paragraph.

103. Defendants deny generally and specifically each and every allegation of this paragraph.

104. Defendants deny generally and specifically each and every allegation of this paragraph.

105. Defendants deny generally and specifically each and every allegation of this paragraph.

106. Defendants deny generally and specifically each and every allegation of this paragraph.

TWELFTH CAUSE OF ACTION

107. Defendants deny generally and specifically each and every allegation of this paragraph.

108. Defendants deny generally and specifically each and every allegation of this paragraph.

109. Defendants deny generally and specifically each and every allegation of this paragraph.

110. Defendants deny generally and specifically each and every allegation of this paragraph.

111. Defendants deny generally and specifically each and every allegation of this paragraph.

DEMAND FOR JURY TRIAL

Defendants demand a trial by jury on all appropriate issues for jury determination.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Defendants allege that neither the Complaint nor any of the alleged claims for relief therein state facts sufficient to constitute a claim for relief against defendants.

SECOND DEFENSE

Defendants allege that their conduct was privileged and/or justified.

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THIRD DEFENSE

Defendants allege that all actions undertaken by Defendants regarding and relating to plaintiffs were in good faith and with reasonable belief that said actions were valid, necessary, and constitutionally and statutorily proper.

FOURTH DEFENSE

Defendants allege that they are entitled to federal and state statutory and/or common law immunity, including qualified immunity, and are not liable for damages as alleged in the Complaint.

FIFTH DEFENSE

Defendants allege that the claims for relief alleged are barred by the statute of limitations, including California Code of Civil Procedure sections 342, and 343 and any other statute of limitations applicable to plaintiffs' claims for relief.

SIXTH DEFENSE

Defendants allege that plaintiffs by their own wrongdoing and/or conduct have waived any and all claims, or their claims are reduced in part or entirely by their own fault or wrongdoing, and their claims which they seek to assert in this action are estopped or reduced both to assert and to recover upon such claims.

SEVENTH DEFENSE

Defendants allege that plaintiffs had a duty to use reasonable efforts to mitigate their alleged damages and plaintiffs failed to use reasonable efforts to mitigate their alleged damages.

EIGHTH DEFENSE

Defendants allege that plaintiffs expressly or impliedly consented to the matters of which they now complain.

NINTH DEFENSE

Defendants allege the Complaint herein does not state facts sufficient to constitute a cause of action and that it is barred by Plaintiffs' failure to comply with applicable notice and claim provisions of California Government Code sections 910, 910.2, 911.2 et seq., and 945.6.

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TENTH DEFENSE

Plaintiffs' Complaint and each and every cause of action contained therein are limited and/or barred by the terms of California Government Code sections 815, 815.2, 815.3, 815.6, 818, 820, 820.2, 820.4, 820.6, 820.8, as the evidence may support.

WHEREFORE, Defendants pray judgment as follows:

1. That Plaintiffs takes nothing by reason of their Complaint herein;
2. That Defendants be dismissed with costs of suit incurred, including recovery of attorney fees; and
3. For further relief deemed just.

Dated: July 31, 2008

HAAPALA, THOMPSON & ABERN, LLP

By: /s/ Clyde A. Thompson
Clyde A. Thompson
Attorneys For Defendants
COUNTY OF ALAMEDA and
SHERIFF GREGORY AHERN

PROOF OF SERVICE

Laura C. M. Dobbins certifies and declares as follows:

I am employed in the County of Alameda, State of California. I am over the age of 18 years, and not a party to this action. My business address is 1939 Harrison Street, Suite 800, Oakland, California, 94612-3527.

On July 31, 2008, I served the foregoing document described as **DEFENDANTS COUNTY OF ALAMEDA AND SHERIFF GREGORY AHERN'S ANSWER TO COMPLAINT AND DEMAND FOR JURY TRIAL** on plaintiffs in this action, whose counsel is currently a non-registered electronic filer, in the manner set forth below.

- ☐ **By Facsimile:** By personally transmitting a true copy of the document(s) via an electronic facsimile machine maintained at 510-273-8570, at _____ a.m./p.m., to the numbers listed below. The transmission was reported as complete and without error. I caused said facsimile machine to print a transmission report, a copy of which is attached to the original of this proof of service.
- ☐ **By Electronic Mail:** By personally transmitting a true copy of the document(s) via an electronic mail account maintained at the law firm of Haapala, Thompson & Abern, LLP, between the hours of 8:00 a.m. and 5:00 p.m., to the e-mail address listed below. The transmission was reported as complete and without error.
- ☐ **By Messenger Service:** By arranging for said document(s) to be picked up by an agent for One Hour Delivery to be delivered on the date set forth below, to the address set forth below.
- ☒ **By Mail:** By placing the document(s) listed above in an envelope addressed as set forth below, with postage thereon fully prepaid, in the United States mail at Oakland, California. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business with postage fully prepaid.
- ☐ **Overnight Delivery:** By placing the document(s) in an envelope designated by United Parcel Service ("UPS"), an express service carrier, for delivery by Next Day Service for which delivery fees were paid or provided, with said envelope addressed as set forth below. I deposited the envelope in a box or other facility regularly maintained by UPS, or delivered to a courier or driver authorized by said express service carrier to receive documents.

Sheila Gropper Nelson
Law Office of Sheila Gropper Nelson
 456 Montgomery Street, Suite 1700
 San Francisco, CA 94104
 Tel: 415-362-2221
 Fax: 415-576-1422

Attorneys For Plaintiffs

1 I declare under penalty of perjury under the laws of the United States of America, and
2 the laws of the State of California that the above is true and correct. Executed on July 31, 2008,
3 at Oakland, California.

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6 Laura C. M. Dobbins
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